

EXHIBIT EE

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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

4 v.

08 CR 8000(HBP)

5 JOHN DOE,

6 Defendant.

7 -----x

8 New York, N.Y.
9 July 30, 2015
10 10:15 a.m.

11 Before:

12 HON. HENRY B. PITMAN,

13 District Judge

14 APPEARANCES

15 PREET BHARARA
16 United States Attorney for the
17 Southern District of New York

18 ANDREW BAUER
19 BRIAN BLAIS
20 Assistant United States Attorney

21 J. CHRISTOPHER ALBANESE
22 Attorney for Defendant

23 Also present: S.A. Shannon Bieniek, FBI

24

25

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1 (In sealed court; case called)

2 THE COURT: Good morning. Please be seated.

3 THE DEPUTY CLERK: Counsel, state your name for the
4 record.

5 MR. BLAIS: Andrew Bauer and Brian Blais for the
6 government. We're joined at counsel table by FBI Agent Shannon
7 Bieniek.

8 MR. ALBANESE: J. Christopher Albanese, attorney for
9 the defendant Albert Hallac.

10 THE COURT: Good morning. This is an initial matter.
11 Any attorney in the well of the court with a cell phone is
12 directed to turn the cell phone off at this time so we give our
13 undivided attention to the matter at hand.

14 I understand there is an application on behalf of
15 Mr. Hallac.

16 MR. ALBANESE: Yes, your Honor.

17 THE COURT: And the applications are?

18 MR. ALBANESE: We have an application to seal the
19 record, the docket, as well as the courtroom for this
20 proceeding.

21 I have an affirmation in that regard that I take it
22 the government has received?

23 MR. BAUER: We have, your Honor.

24 THE COURT: What is the government's position?

25 MR. BAUER: Your Honor, our position is different for

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1 each of the requests. As it relates to today's proceedings,
2 the government would consent or join in the application to seal
3 today's proceeding as well as the transcript. There was
4 another request to seal the entire docket to make it a United
5 States v. John Doe entry. We take no position on that, your
6 Honor. We certainly see some of the points that defense
7 counsel has made. We're not opposing it today, but on the
8 other hand we're not sure it is entirely necessary and we do
9 oppose the request to seal the courtroom.

10 THE COURT: The opposition to sealing the courtroom,
11 is that based on the DOJ policy or is there something unique
12 about this case or is it something else?

13 MR. BAUER: It is based on the DOJ policy, your Honor.
14 But as specific to this case, I don't think the facts as we
15 know them or are articulated in defense counsel's submission
16 rise to the level requiring the sealing of the courtroom.

17 THE COURT: What are your thoughts?

18 MR. ALBANESE: Your Honor, as the government notes and
19 I believe will attest the potential future defendants in this
20 matter are not only extremely litigious but they are
21 potentially dangerous. There has been a history of violence.
22 One of the potential defendants -- I don't know if you would
23 like me to go into details with names, Drew. But as far as
24 potential defendants go, there has been a potential history of
25 organized crime ties. There has also been some rumors of other

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1 witnesses that have met untimely demise at least in his
2 father's case. So there is some concern from defense counsel
3 on that issue.

4 THE COURT: I am going to grant defendant's
5 application and seal the courtroom and the record.

6 Is there anyone in the gallery who is not either with
7 the U.S. Attorney's Office or with the FBI?

8 PRETRIAL OFFICER: I am with pretrial, your Honor.

9 THE COURT: Let me rephrase the question. Anyone who
10 is not with the U.S. Attorney's Office, federal law
11 enforcement, pretrial, or other federal agency?

12 UNIDENTIFIED SPEAKER: Yes, your Honor. We're counsel
13 for Weston Capitalized Management.

14 MR. ALBANESE: They are co-counsel, your Honor.

15 THE COURT: You're co-counsel?

16 MR. ALBANESE: Yes.

17 THE COURT: I take it there is no objection to their
18 remaining.

19 MR. ALBANESE: I prefer if they did.

20 THE COURT: Is there anyone else who doesn't fit into
21 those categories?

22 Let me ask the deputy at this time to lock the
23 courtroom door.

24 MR. ALBANESE: Thank you, your Honor.

25 THE COURT: The first order of business will be for

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1 Mr. Hallac to waive indictment and proceed by way of
2 information; is that right?

3 MR. BAUER: That is correct, your Honor. The matter
4 was wheeled out to Judge Berman. To be clear on the record,
5 Judge Berman referred the case to your Honor for the guilty
6 plea. This is our first --

7 THE COURT: Let me ask Mr. Cancellarich to conduct the
8 waiver of indictment allocution.

9 THE DEPUTY CLERK: You are Albert Hallac?

10 THE DEFENDANT: Yes, I am.

11 THE DEPUTY CLERK: Have you signed the waiver of
12 indictment?

13 THE DEFENDANT: Yes, I have.

14 THE DEPUTY CLERK: Before you signed it, did you
15 discuss it with your attorney?

16 THE DEFENDANT: I certainly did.

17 THE DEPUTY CLERK: Did your attorney explain it to
18 you?

19 THE DEFENDANT: Yes.

20 THE DEPUTY CLERK: Do you understand what you are
21 doing?

22 THE DEFENDANT: Yes.

23 THE DEPUTY CLERK: Do you understand you are under no
24 obligation to waive indictment?

25 THE DEFENDANT: Yes, sir.

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1 THE DEPUTY CLERK: Do you understand if you do not
2 waive indictment if the government wants to prosecute you, they
3 will present this case to a grand jury, which may or may not
4 indict you?

5 THE DEFENDANT: I understand.

6 THE DEPUTY CLERK: Do you understand by signing this
7 waiver of indictment, you have given up your right to have this
8 case presented to a grand jury?

9 THE DEFENDANT: I understand.

10 THE DEPUTY CLERK: Do you understand what a grand jury
11 is?

12 THE DEFENDANT: Yes, sir.

13 THE DEPUTY CLERK: Have you seen a copy of the
14 information?

15 THE DEFENDANT: Yes, sir.

16 THE DEPUTY CLERK: Do you waive its public reading?

17 THE DEFENDANT: Yes, sir.

18 THE DEPUTY CLERK: Thank you.

19 THE COURT: At this time let me also ask
20 Mr. Cancellarich to place two documents before Mr. Hallac.

21 There a one-page document entitled Consent to Proceed
22 before a United Magistrate Judge on a Felony Plea Allocution
23 and a document in the form of a letter dated July 27, 2015.

24 Let me ask Mr. Cancellarich to mark the letter as
25 Court Exhibit 1, please.

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1 Mr. Hallac, two documents have been placed before you.
2 I want to first discuss with you the one-page document entitled
3 Consent to Proceed before a United States Magistrate Judge on a
4 Felony Plea Allocution.

5 Do you see that one-page document?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: Does your signature appear on the bottom
8 of it?

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: Did you read it before you signed it?

11 THE DEFENDANT: Yes, I did.

12 THE COURT: Did you discuss it with your attorney
13 before you signed it?

14 THE DEFENDANT: Yes, I did, your Honor.

15 THE COURT: Do you understand that you have the right
16 to have your plea taken by a district court judge instead of a
17 magistrate court judge?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: Do you understand that by signing that
20 piece of paper, you are giving up your right to have your plea
21 taken by district court judge and consenting to have it taken
22 by a magistrate judge? Do you understand that to be the effect
23 of your signature on that piece of paper?

24 THE DEFENDANT: I understand, your Honor.

25 THE COURT: Has anyone made any promises to you or has

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1 anyone made any threats to you or has anyone made any force
2 against you to induce you to consent to proceed before a
3 magistrate judge?

4 THE DEFENDANT: No, your Honor.

5 THE COURT: There is a second document before you in
6 letter in the form of a letter marked Court Exhibit 1. Do you
7 see Court Exhibit 1?

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: Does your signature appear on the last
10 page of Court Exhibit 1?

11 THE DEFENDANT: Yes, it does.

12 THE COURT: Did you read Court Exhibit 1 before you
13 signed it?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: Did you discuss it with your attorney
16 before you signed it?

17 THE DEFENDANT: Yes, I did.

18 THE COURT: Thank you.

19 Please bring those documents back up, Mr.

20 Cancellarich.

21 Please place Mr. Hallac under oath.

22 THE DEPUTY CLERK: Will you please state your name for
23 the record.

24 THE DEFENDANT: Albert Hallac.

25 (Defendant sworn)

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1 THE COURT: Mr. Hallac, you have now been placed under
2 oath. If you make a false statement during these proceedings,
3 you can be prosecuted for perjury. Do you understand that?

4 THE DEFENDANT: Yes, your Honor.

5 THE COURT: The law requires that I ask you a number
6 of questions to ensure that your plea is knowing and voluntary
7 in all respects.

8 You can be seated.

9 To ensure your plea is knowing and voluntary in all
10 respects, to you ensure that you understand what you are doing
11 today and the consequences of what you are doing. If you don't
12 understand any question that I ask you, tell me that you don't
13 understand the question and I will try to clarify the question
14 or give you a chance to speak privately with your attorney so
15 that you understand exactly what is being asked of you. In
16 addition, if at any time during these proceedings you want to
17 speak with your attorney for any reason whatsoever, just tell
18 me that you want to speak with your attorney and I will give
19 you the chance to speak with him privately.

20 Do you understand that?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: Please state your full name.

23 THE DEFENDANT: Albert Hallac.

24 THE COURT: How old are you, sir?

25 THE DEFENDANT: 78.

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1 THE COURT: How far did you get in school?

2 THE DEFENDANT: Bachelors degree.

3 THE COURT: Have you recently been treated for any
4 type of mental illness?

5 THE DEFENDANT: Recently I was seeing a psychiatrist
6 every six months or so.

7 THE COURT: For what condition do you see the
8 psychiatrist?

9 THE DEFENDANT: Depression.

10 THE COURT: Do you take any medication for depression?

11 THE DEFENDANT: Yes, a medication called Cymbalta.

12 THE COURT: When was the last time you took Cymbalta?

13 THE DEFENDANT: Last night.

14 THE COURT: It is currently about 10:25 in the
15 morning.

16 Is there anything about that medication that affects
17 your ability to think or to understand?

18 THE DEFENDANT: No, your Honor.

19 THE COURT: How frequently do you see the
20 psychiatrist?

21 THE DEFENDANT: Every six months or so.

22 THE COURT: Am I correct in understanding that the
23 depression is not acute? It's not profoundly serious?

24 THE DEFENDANT: No, it is not.

25 THE COURT: Have you recently been treated for drug

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1 addiction of any kind?

2 THE DEFENDANT: No, your Honor.

3 THE COURT: Have you recently been treated for
4 alcoholism?

5 THE DEFENDANT: No, your Honor.

6 THE COURT: Apart from this Cymbalta, have you taken
7 any kind of drugs or medicine, legal or illegal, within the
8 last two days?

9 THE DEFENDANT: I do take two medications twice a day
10 for heart, for asthma, for rheumatoid arthritis and a bunch of
11 other things. So I do take them at night and in the morning.

12 THE COURT: Is there anything about those medications
13 that affects your ability to think or to understand?

14 THE DEFENDANT: No, your Honor.

15 THE COURT: Have you had any beer, wine or liquor in
16 the last 24 hours?

17 THE DEFENDANT: No, your Honor.

18 THE COURT: Apart from the conditions you've already
19 described are you seeing a doctor or health care provider for
20 any other conditions?

21 THE DEFENDANT: I am seeing a health care provider in
22 Florida for rheumatoid arthritis.

23 THE COURT: I think you mentioned asthma; right?

24 THE DEFENDANT: Yes. But that is -- I had a flareup
25 in March, April or so.

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1 THE COURT: You also mentioned a cardiac condition.

2 THE DEFENDANT: Yes. I have been very fine with that.
3 I have been taking regular medication for blood pressure and
4 for cholesterol.

5 THE COURT: I see. In general do you feel
6 clear-headed today and able to understand what is going on
7 around you?

8 THE DEFENDANT: I feel fine, your Honor.

9 THE COURT: Mr. Kaplan.

10 MR. ALBANESE: Mr. Albanese. I am standing in for
11 Mr. Kaplan today.

12 THE COURT: Mr. Albanese, am I correct in my
13 assumption that you have spoken to Mr. Albanese before today's
14 proceeding?

15 MR. ALBANESE: Yes, your Honor.

16 THE COURT: Without telling me the content of anything
17 you may have discussed with him, did anything happen during
18 your conversations with Mr. Hallac where you have reservations
19 about his ability to proceed today?

20 MR. ALBANESE: No, your Honor.

21 THE COURT: Is either side aware of any physical,
22 psychological or emotional condition that might prevent
23 Mr. Hallac from entering a guilty plea today?

24 MR. BAUER: No, your Honor.

25 THE COURT: Let me ask Mr. Cancellarich to mark a copy

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1 of the information as Court Exhibit 1 and to also place that
2 before Mr. Hallac.

3 Now, Mr. Hallac, a copy of the information against you
4 has been placed before you and has been marked as Court Exhibit
5 2. Did you receive a copy of that information prior to today?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: Have you had a chance to read the
8 indictment and to discuss it with your attorneys, Mr. Kaplan
9 and other attorneys with his firm including Mr. Albanese?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: Are you generally satisfied with the
12 representation you received in this case and the advice your
13 attorneys have given to you?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: Is it your intention here today to plead
16 guilty to Counts One through Five of the information?

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: I want to discuss with you briefly the
19 nature of the charge against you in each of the counts of the
20 information, the elements the government would have to prove at
21 trial to establish your guilt, and the penalties you face if
22 your plea is accepted.

23 Do you understand that Count One of the information
24 charges you with conspiracy to commit the offenses of
25 investment advisor fraud and securities fraud in violation of

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1 Title 18, United States Code, Section 371? Do you understand
2 that is the nature of the charge against you in Count One?

3 THE DEFENDANT: Yes, your Honor.

4 THE COURT: Do you understand that in order to
5 establish your guilt on Count One, the government would have to
6 prove three elements beyond a reasonable doubt: First, that
7 there was an agreement among two or more people to commit the
8 offenses of investment advisor fraud and securities fraud;
9 second, that you knowingly entered into and became part of that
10 agreement with knowledge of its illegal object; and third, that
11 at least one the overt acts alleged in the information was
12 committed in furtherance of the agreement or conspiracy; do you
13 understand those are the three elements the government would
14 have to prove with respect to Count One?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: Do you you understand on and Count One you
17 face the maximum sentence of five years' imprisonment, a
18 maximum term of supervised release of three years, a maximum
19 fine of the greatest of \$250,000 or twice the gross pecuniary
20 gain deprived from the offense, or twice the gross pecuniary
21 loss to persons, other than yourself, plus a mandatory special
22 assessment of \$100; do you understand those are the penalties
23 you face on Count One?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: Do you understand that Count Two of the

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1 information charges you with investment advisor fraud in
2 violation of Title 15, United States Code, Section 80b-6 and
3 80b-17? Do you understand that is the nature of the charge
4 against you in Count Two?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: Do you understand that in order to
7 establish your guilt on Count Two, the government would have to
8 prove the following elements beyond a reasonable doubt: First,
9 that you were and investment advisor; second, that you did one
10 of the following: That you either employed a device, scheme or
11 artifice to defraud an actual or prospective investor advisory
12 client or engaged in a transaction, practice or course of
13 business which operated as a fraud and deceit upon those
14 investment advisor clients or prospective advisory clients or
15 engaged in an act, practice and course of business that was
16 fraudulent, deceptive and manipulative? The government would
17 have to prove one of those three to satisfy the second element.
18 The third element the government would have to prove is that
19 you devised or participated in such alleged device, scheme or
20 artifice to defraud or engaged in such alleged transaction,
21 practice or course of business knowingly, willfully and with
22 the intent to defraud; and fourth that you employed such
23 device, scheme or artifice to defraud or engaged in such
24 transaction, practice or course of business by use of the mails
25 or instrumentality of interstate commerce.

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1 Do you understand those are the elements the
2 government would have to prove with respect to Count Two?

3 THE DEFENDANT: Yes, your Honor.

4 THE COURT: Do you understand that if your plea to
5 Count Two is accepted, you face a maximum sentence of five
6 years' imprisonment, a maximum term of three years' supervised
7 release, a maximum fine of the greatest \$10,000 or twice the
8 gross pecuniary gain arrived from the offense or twice
9 pecuniary loss to persons other than yourself, plus a mandatory
10 special assessment of \$100; do you understand those are the
11 penalties you face on Count Two?

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: Do you understand that Count Three of the
14 information charges you with the offense of securities fraud in
15 violation of Title 15, United States Code, Section 78j(b),
16 Section 78ff and 17, C.F.R., 240.10b-5 and Title 18, United
17 States Code, Section 2? Do you understand that is the nature
18 of the charge against you in Count Three, securities fraud?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: Do you understand that in order to
21 establish your guilt on Count Three, the government would have
22 to prove -- excuse me. In order to establish your guilt on
23 Count Three, the government would have to prove the following
24 elements beyond a reasonable doubt: First, the government
25 would have to prove that in connection with the purchase or

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1 sale of securities, you did any one or more of the following:
2 Employed a device, scheme or artifice to defraud or made an
3 untrue statement of material facts or omitted to state a
4 material fact which made what was said under the circumstances
5 misleading or engaged in an act, practice or course of business
6 that operated or would operate as a fraud or deceit upon a
7 purchaser or seller. The government would have to prove one of
8 those three to establish the first element. The second element
9 is that you acted willfully and knowingly and willfully knowing
10 with the intent to defraud. And third that the government
11 would have to prove that you knowingly used or caused to be
12 used any means or instruments of transportation or
13 communication in interstate commerce or the use of the mails in
14 furtherance the fraudulent conduct.

15 Do you understand those are the elements that the
16 government would have to prove to establish your guilt on Count
17 Three?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: Do you understand that on Count Three you
20 face a maximum sentence of 20 years' imprisonment, a maximum
21 term of three years of supervised release, a maximum fine of
22 the greatest of \$5 million or twice the gross pecuniary gain
23 deprived from the offense or twice the gross pecuniary loss to
24 persons other than yourself resulting from the offense, plus a
25 mandatory special assessment of \$100; do you understand those

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1 are the penalties you face on Count Three?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: Do you understand that Count Four charges
4 you with conspiracy to commit the offense of wire fraud in
5 violation of Title 18, United States Code, Section 1349? Do
6 you understand that is the nature of the offense against you in
7 Count Four?

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: Do you understand that in order to
10 establish your guilt on Count Four, the government would have
11 to prove two elements beyond a reasonable doubt: First, that
12 there was an agreement among two or more people to commit the
13 offense of wire fraud; and second, that you knowingly entered
14 into and became part of that agreement with knowledge of its
15 illegal objects; do you understand that those are the elements
16 the government would have to prove with respect to Count Four?

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: Do you understand that on Count Four you
19 face a maximum sentence of 20 years' imprisonment, a maximum
20 term of supervised release of three years, a maximum fine of
21 the greatest \$250,000 or twice the gross pecuniary gain derived
22 from the offense, or twice the gross pecuniary loss to persons
23 other than yourself plus a mandatory special assessment of
24 \$100; do you understand those are the penalties you face on
25 Count Four?

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1 THE DEFENDANT: Yes, your Honor.

2 THE COURT: Finally, do you understand that Count Five
3 charges you with the substantive offense of wire fraud in
4 violation of Title 18, United States Code, Section 1343; do you
5 understand that is the nature of the charge against you in
6 Count Five?

7 THE DEFENDANT: Yes, your Honor.

8 THE COURT: Do you understand that in order to
9 establish your guilt on Count Five, the government would have
10 to prove the following elements beyond a reasonable doubt:
11 First, that there was a scheme or artifice to defraud or to
12 obtain money or property by materially false and fraudulent
13 pretenses, representations, or promises as alleged in the
14 information; second, that you knowingly and willfully
15 participated in the scheme or artifice to defraud with
16 knowledge of its fraudulent nature and with the specific intent
17 to defraud; and third, that in the execution of the scheme, you
18 either used or caused the use of the interstate wires as
19 specified in the information; do you understand those are the
20 elements that the government would have to prove to establish
21 your guilt on Count Five, the wire fraud count?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: Do you understand that on Count Five you
24 also face the maximum sentence of 20 years' imprisonment, a
25 maximum term of supervised release of three years, a maximum

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1 fine of the greatest of \$250,000 or twice the gross pecuniary
2 gain derived from the offense or twice the gross pecuniary loss
3 to persons other than yourself, plus a mandatory special
4 assessment of \$100; do you understand those are the penalties
5 you face on Count Five?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: Do you understand that in the aggregate
8 you face a maximum term of imprisonment of 70 years; do you
9 understand that?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: Mr. Hallac, do you also understand that as
12 part of your sentence the Court must enter an order of
13 restitution that you pay back to any victim any ill-gotten gain
14 or expenses that the victims incurred as a result of your
15 conduct; do you understand that?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: Mr. Hallac, the plea to a felony can also
18 have immigration consequences for individuals who are not
19 United States citizens. In light of that fact, let me ask you
20 are you a U.S. citizen?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: Mr. Hallac, do you understand that under
23 the Sentencing Reform Act of 1984 the United States Sentencing
24 Commission has issued advisory guidelines for judges to consult
25 in imposing sentences in criminal cases; do you understand

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1 that?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: Have you and your attorneys discussed how
4 the guidelines might apply in your case?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: Do you understand that Judge Berman, the
7 judge who is going to impose sentence here, will not be able to
8 determine the appropriate guideline sentence for your case
9 until a document called a presentence report has been prepared
10 and until both you and the government have had the opportunity
11 to review the report and make any challenges you have to the
12 facts in the report and to the guideline range recommended by
13 the Probation Department; do you understand that?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: Do you understand that the guideline range
16 found to apply in your case may turn out to be different from
17 any range you discussed with your attorneys or any range you
18 discussed with the government; do you understand that?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: Do you understand that after your
21 guideline range has been determined, the Court has the
22 authority to depart from the guidelines and to impose a
23 sentence that is even more severe or less severe than the
24 sentence called for by the guidelines; do you understand that?

25 THE DEFENDANT: Yes, your Honor.

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1 THE COURT: Do you understand that the form of early
2 release known as parole no longer exists in the federal system
3 and that if you are sentenced to a term of imprisonment, you
4 will not be released on parole; do you understand that?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: Do you understand that under some
7 circumstances the government may have the right to appeal from
8 any sentence that is imposed upon you and seek the imposition
9 of a harsher sentence; do you understand that?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: I want to discuss with you some of the
12 rights you are giving up by pleading guilty. Do you understand
13 that you have the right to plead not guilty to the charges
14 against you and you have the right to persist in that plea at
15 all stages of the proceedings against you; do you understand
16 you have those rights?

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: Do you understand that if you chose to
19 plead not guilty, you have the right to the assistance of
20 counsel at all stages of the proceedings against you and you
21 have the right to have counsel appointed to you if you could
22 not afford counsel; do you understand you have those rights?

23 THE DEFENDANT: Yes, your Honor.

24 THE COURT: Do you understand that if you chose to
25 plead not guilty, you have the right to a trial by jury? At

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1 the trial, you would be presumed innocent and the government
2 would have to prove your guilty beyond a reasonable doubt. At
3 a trial you would have the right to the assistance of counsel,
4 you have the right to have counsel appointed if you could not
5 afford counsel, you would have the right to see and hear all
6 the witnesses against you, and you would have the right to have
7 those witnesses cross-examined or questioned in your own
8 defense. At a trial you have the right to testify and the
9 right to offer evidence in your defense. Conversely, you have
10 the right to decline to testify or decline to offer evidence.
11 And if you chose not to testify or chose not to offer evidence,
12 those facts would not be used against you. Finally, at trial
13 you will have the right to compulsory process or court orders
14 to compel witnesses to come to court and give testimony in your
15 behalf.

16 Do you understand you have all those rights if you
17 chose to plead not guilty and go to trial?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: Do you understand that by entering a plea
20 of guilty if the plea is accepted, there will be no trial and
21 you will be giving up your right to a trial as well as all the
22 other rights associated with the trial that I have just
23 described to you; do you understand you are giving up all those
24 rights?

25 THE DEFENDANT: Yes, your Honor.

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1 THE COURT: Apart from the agreements that are set
2 forth in Court Exhibit 1, which is the letter agreement you
3 identified at the outset of these proceedings, has anyone made
4 any other promises to you or has anyone made any threats to you
5 or has anyone used any force against you to induce you to plead
6 guilty?

7 THE DEFENDANT: No, your Honor.

8 THE COURT: Are you pleading guilty because you are in
9 fact guilty?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: At this time I am going to ask you to tell
12 us what it is that you did that makes you guilty of the
13 offenses charged in the information.

14 Let me ask counsel is it a prepared statement?

15 MR. ALBANESE: Yes, your Honor. We have a prepared
16 statement. Would you mind if he sits.

17 THE COURT: He can sit. Let me ask you not to go too
18 fast when you read.

19 MR. ALBANESE: Your Honor, would you like a copy?

20 THE DEFENDANT: Your Honor, the factual basis for my
21 plea is as follows: During the time period specified in the
22 information, I was the president of Weston Capital Asset
23 Management. Weston was a registered investment advisor and had
24 offices in New York, Connecticut and West Palm Beach, Florida.
25 Weston managed over a dozen hedge funds for its investors.

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1 From in or about 2009 through at least in or about
2 late 2012, I, along with others, participated in a scheme to
3 defraud Weston investors. Generally speaking:

4 I failed to disclose to my investors material
5 information about financial transactions involving their
6 moneys;

7 I failed to discuss close to investors the transfer of
8 moneys from one investment fund to benefit the investors of
9 another fund;

10 I, along with the others, retained certain investor
11 funds that were improperly transferred to an account that I
12 controlled; and

13 I agreed to make a false representation to assist a
14 co-conspirator in an attempt to defraud another company.

15 Allow me to explain these acts more specifically.

16 In or about the fall of 2009, Fund.com, a public
17 company, agreed to purchase a substantial ownership interest in
18 Weston. I soon learned that Fund.com was controlled by Jason
19 Galanis, an individual who was barred by the SEC from being an
20 officer or director of a public company. While I disclosed the
21 purchase of Weston by Fund.com to my investors, I did not
22 disclose to the investors Galanis' control over, or involvement
23 in, Fund.com.

24 Similarly, in or about early 2010, I agreed with
25 Galanis to enter into a transaction between one of Weston's

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1 hedge funds called the Wimbledon Financing Fund, and an entity
2 controlled by Galanis called the Gerova Financial Corporation.
3 As part of that transaction I had the Wimbledon Financing Fund
4 exchange all of its assets, which at the time consisted of
5 investments in other hedge funds, with Gerova for restricted
6 shares of Gerova stock believed to be worth approximately \$85
7 million. While the details of the transaction were fully
8 disclosed to investors of the Wimbledon Financing Fund, I did
9 not disclose Galanis' control over or involvement with Gerova.

10 In both instances I was concerned that Galanis'
11 involvement in the deals, and the fact of his SEC bar, would
12 upset my investors and cause them to oppose or aggressively
13 question the deals. I intentionally withheld this information
14 about Galanis from the investors and did not instruct anyone
15 else at Weston to inform the investors of Galanis' involvement
16 with either Fund.com or Gerova.

17 In early 2011, a series of negative articles appeared
18 about Galanis, as well as other of his associates, and their
19 involvement with Gerova. As a result, Gerova's stock plummeted
20 and it was eventually delisted from the American Stock
21 Exchange. The stock that the Wimbledon Financing Fund held in
22 Gerova became worthless.

23 Around this time, Galanis introduced me to another
24 individual named David Bergstein. Bergstein offered to help me
25 recover, on behalf of the Wimbledon Financing Fund investors,

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1 the assets that they had given to Gerova in exchange for the
2 now worthless Gerova stock. However, Bergstein would only
3 assist in this effort if the Wimbledon Financing Fund would
4 contribute to the recovered assets to another company he
5 created, called Arius Libra, in order to help finance
6 investments in medical billing companies. Hoping to recover
7 Wimbledon Financing Fund's assets from Gerova, I agreed to this
8 transaction.

9 Part of the Gerova unwind transaction put together by
10 Bergstein required paying off approximately \$5 million worth of
11 Gerova's debts. Bergstein had assured me that the assets Arius
12 Libra received from the financing fund, which had been
13 recovered from Gerova, would be used to both obtain a loan to
14 pay off the expenses of Gerova as well as provide operating
15 capital for Arius Libra. Bergstein, however, failed to obtain
16 the promised loan for Arius Libra and then convinced me to take
17 cash held in another Weston fund called the Partners II fund,
18 and loan that cash to Arius Libra. From in and or about
19 August 2011 through December 2011, I caused Partners II to loan
20 Arius Libra up to \$9 million. While the loans were
21 collateralized with the Wimbledon Financing Fund assets in
22 Arius Libra's possession, I did not inform the investors of
23 Partners II that I had made this loan with their assets for the
24 benefit of a separate group of Weston investors.

25 Excuse me.

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1 (Pause)

2 In and around November 2011, Bergstein convinced me to
3 enter into another transaction between a Weston fund called the
4 Wimbledon TT Fund and an entity Bergstein controlled called
5 Swartz IP. As part of this transaction, I agreed to invest the
6 cash held by the TT Fund into Swartz IP. I did not conduct
7 proper due diligence on Swartz IP nor did I inform the
8 investors of the transaction. The total amount of money
9 transferred to Swartz IP was approximately \$17 million. I,
10 along with Bergstein and others, also arranged for three
11 million of the TT Fund to be used to repay part of the loan
12 Arius Libra owed to the P II fund. Again, this was not
13 disclosed to the TT investors.

14 In each of the before-mentioned conduct, which I
15 omitted material information, this made my representations
16 incomplete and therefore misleading.

17 Many of the funds described above traded securities in
18 the public exchanges.

19 In addition, Bergstein caused \$750,000 of the TT Fund
20 money to be transferred to an entity called Purplebox. This
21 entity was an investment vehicle created for the benefit of
22 myself and two other executives of Weston. When I realized
23 that the money Bergstein sent to Purplebox account belonged to
24 the TT investors, I did not return the moneys to the TT Fund as
25 I should have. By this time I had transferred 240,000 of the

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1 750,000 out of the Purplebox account for my personal use.

2 In 2012, Bergstein requested I assist them in
3 acquiring another company called Bidz.com. Bergstein asked me
4 to falsely represent that Weston would be the guarantor of
5 Bergstein's purchase on Bidz.com. Specifically, Bergstein
6 falsely created and e-mailed me a financial statement for a
7 Weston fund called Partners III that had no assets. Bergstein
8 asked me to falsify -- falsely represent that this fund,
9 Partners III, would back him as the guarantor for the
10 acquisition. I knew the financial statement was false, but I
11 forwarded the balance sheet to an attorney working on the
12 transaction and represented the financial statement to be
13 accurate.

14 When I communicated with investors, it was by
15 telephone, e-mail, and regular mail and the investors were in
16 many states. Many of the actions described to you today
17 occurred while conducting business in the City of New York.

18 I stand before the Court today to plead guilty to the
19 crimes I have just described. When I engaged in these acts, I
20 knew they were wrong but did them anyway. Your Honor, I worked
21 hard my whole life to build my business and provide for my
22 family. I strove to live and conduct myself both personally
23 and professionally, in a manner that I could be proud of: With
24 honor, modesty, dignity and integrity. I recognize that the
25 conduct that I have just described betrayed these aspirations.

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1 Yet I take full responsibility for my actions and I will spend
2 every day, for the rest of my life, living with the
3 consequences of my actions and working to repair the damage I
4 have caused to others, my family and myself.

5 THE COURT: Does the government believe any further
6 inquiry is a necessary concerning the facts of the offenses?

7 MR. BAUER: Judge, just a couple technical matters
8 relating to interstate commerce and venue. Mr. Hallac
9 mentioned that he conducted business in the City of New York.
10 I believe that is Manhattan, the Southern District of New York.
11 If we can clarify that.

12 THE COURT: Mr. Hallac, on page 7 of your comments you
13 referred to conducting business in the City of New York. Was
14 that specifically Manhattan or the Bronx within the City of New
15 York?

16 THE DEFENDANT: It was in Manhattan, yes, sir.

17 MR. BAUER: Then referring to the bottom of page 6
18 where it was discussing that Mr. Hallac had sent the false
19 financial statement regarding Bidz.com, I wanted to clarify
20 that. I believe that was sent by e-mail electronic mail, and
21 it was done so while Mr. Hallac was in Florida. He sent it to
22 a recipient in California, but the e-mail server from which it
23 was sent over was here in the Southern District of New York.

24 THE COURT: Is that correct?

25 THE DEFENDANT: Yes. Yes, your Honor, that is

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1 correct.

2 MR. BAUER: Thank you, your Honor. No other
3 questions.

4 THE COURT: Does the government represent that it has
5 facts in its possession to prove Mr. Hallac's guilt beyond a
6 reasonable doubt?

7 MR. BAUER: Yes, your Honor.

8 Mr. Hallac, how do you plead to each of the Counts One
9 through Five to the information that has been placed before you
10 and marked Court Exhibit 2, guilty or not guilty?

11 THE DEFENDANT: Guilty.

12 THE COURT: That is guilty to each count; is that
13 correct?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: Does the government believe any further
16 inquiry should be made concerning any matter?

17 MR. BAUER: Well, your Honor, there is a forfeiture
18 allegation in the information. I would ask that your Honor ask
19 Mr. Hallac if he admits to that allegation.

20 MR. ALBANESE: Mr. Hallac, it is also my understanding
21 that as part of your agreement with the government, you're
22 agreeing to forfeit or give over to the government any
23 ill-gotten gain that you have received as a result of the
24 conduct you just described or anything that you purchased with
25 the ill-gotten gain that resulted from the conduct; is that

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1 correct?

2 THE DEFENDANT: That's correct, your Honor.

3 THE COURT: Anything else from the government?

4 MR. BAUER: No, your Honor. Thank you.

5 THE COURT: Mr. Albanese, do you believe any further
6 inquiry should be made concerning any subject?

7 MR. ALBANESE: No, your Honor.

8 THE COURT: You can be seated, gentleman.

9 Based on Mr. Hallac's physical appearance, his
10 demeanor and his answers to all the forgoing questions, I find
11 that he is fully competent and capable of entering an informed
12 and voluntary plea, that he is aware of the nature of the
13 charges and the consequences of the plea, and that the plea is
14 knowing and voluntary and supported by an independent basis in
15 fact as to each of the essential elements of the offenses. I
16 therefore accept the plea and recommend that Judge Berman
17 accept the plea.

18 I take it a presentence report should not be ordered
19 at this time nor should a sentencing date be set?

20 MR. BAUER: No, your Honor. If you would like if you
21 want to set a control date, I would ask for six months out. I
22 would also be just as comfortable to represent to your Honor
23 that we'll be in touch with Judge Berman's chambers and set a
24 control date with them.

25 THE COURT: I think it is better to do that directly

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1 with Judge Berman's chambers.

2 MR. BAUER: Thank you, your Honor.

3 THE COURT: My understanding is that this is
4 Mr. Hallac's initial appearance; is that correct?

5 MR. ALBANESE: That is correct, your Honor.

6 THE COURT: So bail also needs to be set?

7 MR. BAUER: That's correct, your Honor.

8 THE COURT: Do you have the pretrial services report?

9 MR. BAUER: We do, your Honor.

10 THE COURT: What are the parties' view on bail?

11 MR. BAUER: Your Honor, I think the parties have come
12 to an agreement to a package that hopefully your Honor deems
13 appropriate. It is a 500,000-dollar personal recognizance bond
14 secured by the signature of Mr. Hallac. And then besides that
15 it is all of the usual terms, including travel restricted to
16 the continental United States. He has a United States
17 passport, your Honor. What the parties have discussed is that
18 we would like him to turn that passport over to Pretrial, but
19 somewhere close to where he lives in Florida so that it could
20 be accessed if necessary. I know that Mr. Hallac in particular
21 has an interest in visiting family in Canada in the next month
22 or two. The government is not opposed to it, but the
23 government would ask that Mr. Hallac just make that application
24 through Pretrial to Judge Berman.

25 THE COURT: Do we know what district he resides in in

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1 Florida?

2 MR. BAUER: Southern District of Florida.

3 THE COURT: Passport to be surrendered to the Southern
4 District of Florida.

5 MR. BAUER: And then no new travel applications be
6 made.

7 I also saw in the Pretrial Services' report that
8 Pretrial recommended continued mental health treatment. That
9 seems to make sense. Mr. Hallac said to you, your Honor, he
10 sees a psychiatrist every six months. That seems like that
11 should continue. In terms of reporting to Pretrial Services, I
12 am happy to go along with Pretrial's recommendation that he
13 report by the web or telephone as directed.

14 THE COURT: Mr. Albanese, what are your thoughts? Is
15 that the package that the parties have agreed?

16 MR. ALBANESE: Yes, your Honor.

17 THE COURT: I am going to set the bail as suggested by
18 the government, a 500,000 PRB, travel limited to the
19 continental United States, passport surrendered to Pretrial in
20 the Southern District of Florida, no new applications for
21 travel documents, continued mental health treatment, and
22 regular Pretrial supervision by reporting by web or telephone.

23 MR. ALBANESE: Your Honor, I have one minor point. At
24 present Mr. Hallac is with his wife and family on vacation in
25 Vermont so he will not be back in the Southern District of

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1 Florida until the end of August.

2 THE COURT: So the bond set today and the other
3 conditions met by August 31?

4 MR. BAUER: I am pausing on the passport.

5 THE COURT: Where is the passport right now?

6 MR. ALBANESE: In my pocket right now.

7 THE COURT: You want it surrendered in Florida?

8

9 PRETRIAL OFFICER: Your Honor, we can take possession
10 of the passport. We'll send it to the Pretrial office in the
11 Southern District of Florida.

12 THE COURT: Does that work for everybody?

13 MR. ALBANESE: Thank you.

14 THE COURT: He doesn't need the passport between now
15 and the end of August, does he?

16 THE DEFENDANT: No.

17 MR. ALBANESE: Definitely not.

18 THE COURT: So the bond and passport will be
19 surrendered today and the other conditions met by the end of
20 August.

21 MR. ALBANESE: Thank you, your Honor.

22 THE COURT: Anything else from either side,
23 government?

24 MR. BAUER: No, Judge. Just to clarify what we
25 started to say, which was the sealing request, that the

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1 courtroom has been closed today. I do think that it is your
2 Honor's order that the docket will be United States v. John Doe
3 docket.

4 THE COURT: No docket entries. Everything is held by
5 Judge Berman until it is unsealed.

6 Anything else from the government?

7 MR. BAUER: No, your Honor. Thank you for your time.

8 THE COURT: Mr. Albanese, anything else?

9 MR. ALBANESE: No, your Honor. Thank you very.

10 THE COURT: Thank you all.

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